

# MICHIGAN SUPREME COURT



## *Office of Public Information*

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FOR IMMEDIATE RELEASE

### **JUDGES TO ADVISE DEFENDANTS OF IMMIGRATION CONSEQUENCES OF CRIMINAL PLEAS, UNDER POSSIBLE COURT RULE CHANGE ON MICHIGAN SUPREME COURT'S JUNE 3 PUBLIC CONFERENCE AGENDA**

**Rule being mulled in wake of U.S. Supreme Court ruling in *Padilla v Kentucky***

LANSING, MI, June 2, 2010 – Trial judges in criminal cases would be required to advise defendants that pleading guilty or no contest could have immigration consequences for noncitizens, under a possible court rule change being considered by the [Michigan Supreme Court](#). The proposed amendment is on the Court's June 3 [public administrative conference agenda](#).

The rule is being considered in the wake of a March 31 United States Supreme Court decision, *Padilla v Kentucky*. Petitioner Jose Padilla, a legal permanent resident of the United States, argued that he was denied effective assistance of counsel in a criminal case when his lawyer assured him that his guilty plea and five-year prison sentence would not affect his immigration status. In fact, the guilty plea triggered a mandatory deportation to Padilla's country of origin, Honduras, to take effect after Padilla served his prison term. In a majority opinion written by Justice John Paul Stevens, the Court held that "counsel must inform her client whether a plea carries the risk of deportation." Noting that statutory changes over the past two decades have made deportation mandatory for a wide variety of crimes, Stevens said that, where a simple reading of the statute would have told the lawyer that her client would face certain deportation, failing to provide that information denies the defendant effective assistance of counsel. In less clear cases, the lawyer must still advise the defendant that his or her immigration status could be in jeopardy, Stevens stated.

Because of *Padilla*, the Michigan Supreme Court is looking at possible amendments to MCR 6.302 and 6.610 (ADM File No. 2010-16) to add a requirement that the trial judge advise the defendant that a plea may have immigration consequences.

The public conference begins at 9:30 a.m. and will take place in the Supreme Court's courtroom on the 6<sup>th</sup> floor of the [Michigan Hall of Justice](#).

Also on the Court's public conference agenda:

- ADM File No. 2010-01, Nomination for Appointment to the Board of Law Examiners.  
*Consideration of nominees for appointment to the Board of Law Examiners.*

- ADM File No. 2010-01, Appointments to the Court Reporting and Recording Board of Review.  
*Whether to appoint Judge Sean P. Kavanagh (16<sup>th</sup> District Court, Livonia) as a district judge member of the Court Reporting and Recording Board of Review.*
- [ADM File No. 2009-06](#), Proposed Amendments of Rules 1.5, 1.7, 1.8, 3.1, 3.3, 3.4, 3.5, 3.6, 5.4, 5.5, and 8.5 of the Michigan Rules of Professional Conduct and Proposed New Rules 2.4, 5.7, and 6.6 of the Michigan Rules of Professional Conduct.  
*Whether to adopt the proposed amendments and new rule proposals of the Michigan Rules of Professional Conduct.*
- ADM File No. 2006-38, Proposed Amendments of Subchapter 9.100 *et seq.* of the Michigan Court Rules.  
*Whether to approve for publication MCR 9.128, 9.129, 9.130, 9.131, and MCR 8.110 and 8.120 as submitted by the State Bar of Michigan and the Attorney Grievance Commission.*
- [ADM File No. 2008-39](#), Amendments of MCR 6.425 and MCR 6.610 of the Michigan Court Rules.  
*Further consideration and possible reconsideration of the amendments adopted in this file in light of letter from the Prosecuting Attorneys Association of Michigan and other input.*
- ADM File No. 2009-28, Proposed Local Court Rule 3.208 (Oakland County Circuit Court).  
*Whether to approve a local court rule that allows nonattorney court staff to use a judicial signature stamp.*
- ADM File No. 2010-02, Approval of the Attorney Discipline Board and Attorney Grievance Commission Budgets.  
*Whether to approve the ADB and AGC budget requests for fiscal year 2010-2011.*
- ADM File No. 2010-05, Proposed Amendments of Rules 2.112 and 7.205 of the Michigan Court Rules.  
*Whether to publish for comment proposed rule amendments that seek to provide for more expedient adjudication of Headlee-based claims, and make other revisions, such as eliminating fact-specific pleading requirements.*
- ADM File No. 2010-18, State Bar of Michigan Pro Bono Proposal.  
*Whether to publish for comment a proposal from the State Bar of Michigan Representative Assembly that would reformulate Michigan Rule of Professional Conduct 6.1 regarding attorney pro bono activities.*
- ADM File No. 2010-21, Proposed Amendment of MCR 8.110 to clarify reporting requirements during interlocutory appeal.  
*Whether to publish for comment a proposed amendment of MCR 8.110 to correct an*

*inconsistency regarding the Delay in Criminal Proceedings report submitted by the chief judge to exclude periods of delay during the time an order entered by an appellate court is in effect that stays the disposition or proceedings of the case.*

- Regional Administrator (State Court Administrative Office Region IV) Vacancy.

The [agenda](http://www.courts.michigan.gov/supremecourt/Resources/Administrative/AdminConf.htm) for this conference may be viewed online at <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/AdminConf.htm>.

Proposed or recently-adopted court rules are available at <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/#proposed>.

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